

FILED

NOV 8, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

TAHIR M. AFRIDI

-PETITIONER,

Vs.

1. ALBERTO GONZALES
or any other incumbent in office.

2. DISTRICT DIRECTOR,
USCIS. CHICAGO.

-RESPONDENTS.)

No:

07cv6366
JUDGE KENDALL
MAG. JUDGE KEYS

STAY AND
**EMERGENCY PETITION FOR WRIT FOR HABEAS CORPUS
AND REQUEST FOR RELEASE FROM DETENTION.
(28 USCA SECTION 2241 ETC.)**

NOW COMES, petitioner TAHIR M. AFRIDI, by his attorney
RAYMOND J. SANDERS, submits this petition *STAY AND* for Writ of Habeas Corpus,
to release the detention and custody of the respondents, and in support states
as follows:

INTRODUCTION AND PURPOSE:

1. The Petitioner has been in the custody of the Respondent and is presently detained at the Broadview Center, within the jurisdiction of this Court. It is feared that if the petitioner is not released, he will be deported to Pakistan, his pending application to reopen filed before the Immigration

Court for adjustment of his status will become moot and or waived he and will be deprived of his eligibility for adjustment of his status as permanent resident of USA.

JURISDICTION:

2. This Court has jurisdiction to entertain this petitions pursuant to 28 U.S.C. § 2241; 28 U.S.C. §1331, and 28 U.S.C § 1361 etc.

VENUE:

3. Petitioner is held in custody and detained at Broadview Center for Detention in Chicago, Illinois within the jurisdiction of this Court and therefore Venue is proper.

FACTUAL BACKGROUND FOR RELIEF CLAIMED:

4. The petitioner arrived in USA April 9, 2000 as a non-immigrant Visitor B/1-B/2 Visa. He was authorized to remain inn USA up to October 8, 2000. Ace Movers & Rentals, Inc. filed an application for labor certification pursuant to rules in the office of the Virginia Employment Commission (Case No: 0146A674) on April 26, 2001 duly completed Forms MA-750A and B as required, which petition was thereafter certified by the Certifying Officer of the United States Department of Labor on March 28, 2002. The copy of the letter acknowledging the application for Labor Certification and the certification of the Certifying Officer is attached as Exhibit A. and A/1.

5. Therefore pursuant to 8 C.F.R §§ 245.10(a)(2), 1245.10(a)(2), the petitioner is grandfathered and entitled to stay in this country and eligible for Statutory relief for adjustment of status as permanent Resident of USA as the labor certification application was filed before April 30, 2001.

6. Petitioner was placed under removal proceeding with allegations of overstaying following Notice to Appear on March 25, 2003. However the Immigration Judge ignoring his grandfathered rights of eligibility, on February 23, 2003 entered order of voluntary departure without his consent (His attorney waive right of appeal without his consent) and in alternative his removal to Pakistan.(Ex.B)

7. The petitioner having not consented for voluntary departure and or waiver of right of appeal, he filed petition to vacate the said order on the ground of ineffective assistance of counsel. The Immigration Judge denied this ground, to which the Appeal to Board of Immigration was filed and the petitioner being aggrieved of the decision of BIA file the Review petition in the US Court of Appeals in 7th. Circuit. The Seventh Circuit by order denied the review petition stating that it had no jurisdiction.

8. Petitioner remained in United States as he believed that he is eligible for and entitled to the adjustment of his status as permanent Resident

of USA and if he will voluntarily leave USA, his rights for adjustment of status will be lost, despite the fact he is eligible as being grandfathered as stated.

9. The issue of the eligibility of the petitioner as he being grandfathered and entitled to statutory relief for adjustment of Status, has never been discussed and or decided either by Immigration Judge, or by Board of Immigration Appeals and by the Seventh Circuit.

10. Petitioner states that he has filed the Motion to reopen before the Immigration Judge for adjustment of his status as Permanent Resident of USA as the quota in his employment category being opened for the priority date of the petitioner April 26, 2001.

11. The petitioner is presently being detained for deportation to Pakistan pursuant to the order of Immigration Judge as he failed to leave USA. Petitioner states if he is deported to Pakistan, his Motion to reopen and/or reconsider the orders of removal entered by the Immigration Judge and for adjustment of his status as permanent Resident of USA will become moot and his rights will be lost for ever, and he will suffer irreparable injury which will not be compensated by any means. The petitioners due process rights are violated in order to deprive of his statutory right which he is otherwise entitled to.

RELIEF PRAYED:

A. Petitioner prays that, this Court issue a Writ of Habeas Corpus directing the Respondents to bring the petitioner to this Court at a time to be specified and explain that why the Petitioner should not be released from the custody immediately, without bond, *AND ENTER ORDER STAYING DEPORTATION OF THE PETITIONER*

B. This Court issue a declaratory judgment stating that the petitioner is eligible to be released and that the detention and deportation of petitioner to Pakistan will deprive of his right to become lawful permanent resident to which he eligible as his rights are being grandfathered under the law.

C. That this Court order petitioner to be released forthwith from the detention and custody without bond or in the alternative setting reasonable amount of bond.

Dated this 08 day of November 2007

Respectfully submitted,
Raymond J. Sanders
Raymond J. Sanders.
Attorney for Petitioner.
2809 W. Devon Ave.
Chicago, Ill. 60659 Tel: (773) 761 0090.

03/12/2005 22:18

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PERVAIZ S MIAN

COMMONWEALTH of VIRGINIA
Virginia Employment Commission3751 Nine Mile Road, Suite C
Richmond, VA 23223Dr. Thomas T. Towberman
CommissionerPhone: (804) 236-2708
Fax: (804) 236-2709

May 15, 2001

MR MAQSOOD HAMID MIR
MIR LAW ASSOCIATES LLC
9600 RIVER ROAD
POTOMAC MD 20854

Re: Application for Alien Employment Certification
Employer : ACE Movers & Rentals Inc.
Alien(s) : Tahir AFRIDI
Case No : 0146A674
Receipt Date: April 26, 2001

Dear Mr Mir:

Subject: Receipt of Application

Your application for Alien Employment Certification has been received in this office. Cases are processed in the order received. As of this date, we are reviewing Reduction in Recruitment (RIR) cases received in March 2001 and non-RIR cases received in February 2001.

In order to allow our staff more time for the processing of applications, it is requested that you not call this office regarding your case. When the application is processed, you will be contacted by mail should additional documentation or correction be required.

Should it become necessary to contact this office, please limit your calls to the hours of 2-4 PM, Monday-Friday, if possible.

Your cooperation is most appreciated, and should result in more expeditious processing of your application.

Reminder - All new permanent applications for Northern Virginia should be mailed to:
3751 Nine Mile Rd Suite C
Richmond, VA 23223

Sincerely,


Marguerita Green

Alien Labor Certification Unit

The Virginia Employment Commission is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.

Telecommunication Device for the Deaf (804) 871-8030

Ely-A

MIR LAW ASSOCIATES

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U.S. DEPARTMENT OF JUSTICE
 Virginia Employment Center
 Alien Certification Application
 5520 Cherokee Avenue, Suite 100
 Alexandria, VA 22312

PART A - OFFER OF EMPLOYMENT

IMPORTANT NOTE FULLY ANSWER COMPLETING THIS FORM
 PRINT legibly in ink on one side of a typewriter. If you need extra space to
 answer questions on this form, use a separate sheet. Identify each answer
 sheet by the number of the corresponding question. SIGN AND DATE each
 sheet in original signature.
 To knowingly furnish any false information in the preparation of this form
 is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both.

1. Name of Alien (Family name in capital letters, first, middle, last)		2. Type of Visa (If in U.S.)	
AFRIDI Tahir		None	
3. Present Address of Alien (Number, Street, City and Town, State ZIP Code or Post Office, Country)			
Norway Lane Apt. # 1-B 1557 Evanston IL 60074			
4. Name of Employer (Full name of organization)			
ACE Movers & Rentals Inc.			
5. Telephone (Area Code and Number)			
703-707-9400			
6. Address (Number, Street, City or Town, Country, State, ZIP Code)			
Barnfield Rd. Lot #1 13800 Herndon VA 20171			
7. Address Where Alien Will Work (If different from item 6)			
Same as column # 6			
8. Nature of Employer's Business Activity		9. Name of Job Title	
Moving & Truck Rental Services		System Administrator	
10. Total Hours Per Week		11. Work Schedule (Months)	
a. Week b. Overtime		a. Week b. Overtime	
40 0		9:00 a.m. - 5:00 p.m. \$42K per YEAR \$0 per hour	
12. Describe fully the job to be performed (Detail)			
Maintain data networks for users. Install & administer Windows NT server/workstation & control procedures for a system of network applications & company's web system.			
13. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in item 12			
None			
14. Other Special Requirements			
None			
15. Education (Enter number of years)			
Grade School	High School	College	College Degree Required (Specify)
8	4	0	N/A
Major Field of Study			
N/A			
16. Training (No. Yrs. No. Mos. Type of Training)			
0 0 N/A			
17. Experience (Job Offered Related Occupation Related Occupation (Specify)			
N/A			
18. Occupational Title of Person Who Will Be Alien's Immediate Supervisor			
Owner			
19. Number of Employees Alien will Supervise			
10			
20. Endorsements (Mark up only in spaces for government use only)			
Date Form Received			
LOAN 26 2002			
3/4/02 H.O.			
Ind. Code Occ. Code			
4214 03-262-018			
Date of Birth			
3/28/1971			
Date of Issue			
3/28/02			

MAR 28 2002

Richard E. Canali

CERTIFYING OFFICER

03371716

BTA 750 (Oct. 1974)

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MIR LAW ASSOCIATES

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PART B - STATEMENT OF QUALIFICATIONS OF ALIEN

FOR ADVICE CONCERNING REQUIREMENTS FOR ALIEN EMPLOYMENT CERTIFICATION: If alien is in the U.S., contact nearest office of Immigration and Naturalization Service. If alien is outside the U.S., contact nearest U.S. Consulate.

Print (legibly in ink or use a typewriter. If you need more space, on fully answer any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM.

1. Name of Alien (Family name in capital letters)		First name		Middle name		Maiden name	
AFRIDI Tahir							
2. Present Address (St., Street, City or Town, State or Province and ZIP Code)						3. Type of Visa (If in U.S.)	
Norway Lane Apt. # 1-B 1557 Ealatine IL 60074						None	
4. Alien's Birthdate (Month, Day, Year)		5. Birthplace (City or Town, State or Province)		Country		6. Present Nationality or Citizenship (Country)	
01/01/87		Rawalpindi		Pakistan		Pakistan	
7. Address in United States Where Alien Will Reside Will be determined later, but within the commuting distance from job							
8. Name and Address of Prospective Employer if Alien has job offer in U.S.						9. Occupation in which Alien is Seeking Work	
ACE Movers & Rentals Inc. Barnsfield Rd. Lot #1 13800 Herndon 20171						System Administrator	
10. *X the appropriate box below and furnish the information required for the box marked							
<input type="checkbox"/> Alien will apply for a visa abroad at the American Consulate in _____ City in Foreign Country Foreign Country							
<input checked="" type="checkbox"/> Alien is in the United States and will apply for adjustment of status in that of a lawful permanent resident in the office of the Immigration and Naturalization Service at _____ City State							
11. Name and Address of School, College and Universities Attended (Include trade or vocational training facilities)		Type of Study		FROM		TO	
None				Month Year		Month Year	
						Degree or Certificate Received	
12. Additional Qualifications and Skills Alien Possesses and Proficiency in the use of Tools, Machines or Equipment Which Would Help Establish if Alien Meets Requirements for Occupation in Item 9. None							
13. List Licenses (Professional, Journeyman, etc.) N/A							
14. List Documents Attached Which are Submitted as Evidence that Alien Possesses the Educational Training, Experience, and Abilities Represented None							
Enrollment							
DATE REC. DOG							
O.T. & C.							

(Make no entry in this section - EOR Government Agency USE ONLY)

(Items continued on next page)

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U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
CHICAGO, IL 60603

In the Matter of:

Case No.: A 95925145

Tahir M. AFRIDI

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

Upon the basis of respondent's admissions, I have determined that the respondent is subject to removal on the charge(s) in the Notice to Appear. The respondent has made application solely for voluntary departure in lieu of removal.

It is HEREBY ORDERED that the respondent be GRANTED voluntary departure in lieu of removal, without expense to the Government on or before June 23, 2005 or any extensions as may be granted by the District Director, Immigration and Naturalization Service, and under whatever conditions the District Director may direct.

It is FURTHER ORDERED:

- ☐ That the respondent post a voluntary departure bond in the amount of _____ with the Immigration and Naturalization Service on or before _____
- ☐ That the respondent shall provide the Immigration and Naturalization Service travel documentation sufficient to assure lawful entry into the country to which the alien is departing within 60 days of this order, or within any time extensions that may be granted by the Immigration and Naturalization Service.
- ☐ Other _____

It is FURTHER ORDERED that if any of the above ordered conditions are not met as required, the above order shall be withdrawn without further notice or proceedings and the following shall thereupon become immediately effective: respondent shall be removed to _____ on the charge(s) in the Notice to Appear.

It is FURTHER ORDERED that if respondent fails to depart as required, the above order shall be withdrawn without further notice or proceedings and the following order shall become immediately effective: respondent shall be removed to Pakistan on the charge(s) in the Notice to Appear.

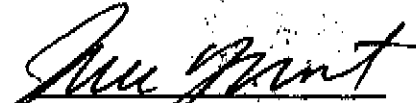
You have been granted voluntary departure from the United States pursuant to Section 240B of the Immigration and Nationality Act. Remaining in the United States beyond the authorized date will result in your being found ineligible for certain forms of relief under the Immigration and Nationality Act (See Section A. below) for a period of ten (10) years from the date of scheduled departure. Your voluntary departure bond, if any, will also be breached. Additionally, if you fail to voluntarily depart the United States within the time period specified, you shall be subject to a civil penalty of not less than \$1000 and not more than \$5000.

E. Subit B

A. THE FORMS OF RELIEF FROM REMOVAL FOR WHICH YOU WILL BE INELIGIBLE ARE:


- 1) Voluntary departure as provided for in Section 240B of the Immigration and Nationality Act;
- 2) Cancellation of removal as provided for in Section 240A of the Immigration and Nationality Act; and
- 3) Adjustment of status or change of status as provided for in Section 245, 248 or 249 of the Immigration and Nationality Act.

This written notice was provided to the alien in English. Oral notice of the contents of this notice was given to the alien in his/her native language, or in a language he/she understands.


 James R. Fagnano
 Immigration Judge
 Date: 2-23-05

Appeal: WAIVED (X)(E)
 Appeal Due By: _____

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
 TO: ☐ ALIEN ☐ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP ☐ INS
 DATE: 2-23-05 BY: COURT STAFF 
 Attachments ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other

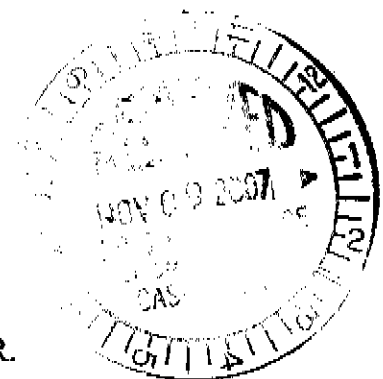
T7

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT, CHICAGO.

IN THE MATTER OF :

TAHIR M. AFRIDI,
Respondent./ Petitioner,

A95 925 145



MOTION TO REOPEN AND OR RECONSIDER.

NOW COMES, Tahir M. Afridi, by his attorney Raymond J. Sanders, and move this Court to reopen this case. In support states as follows:

1. The Petitioner is grandfathered and eligible pursuant to 8 C.F.R §§ 245.10(a)(2), 1245.10(a)(2) for adjustment of his status as a permanent Resident of USA to stay in the United States, as he is the beneficiary of the approvable Labor Certification Application filed on April 26, 2001 in the office of Commonwealth of Virginia, Virginia Employment Commission.
2. Petitioner therefore submits this Motion for permission to file and process his Application to Register Permanent Residence and adjust his status to that of a permanent Resident of USA.
3. The date on which his labor certification was accepted for filing was April 26, 2001 and this date is considered to be the priority date. and the quota for adjustment being open in his category, the petitioner is eligible for adjustment of his status to that permanent Resident Status as provided in Sec. 245(i) of Life Act. IIRIRA.
4. Petitioner therefore request that the prior order of removal entered on February 23, 2005 be vacated for adjustment of the Status of the petitioner.

5. Petitioner states that on this date, the petitioner is under detention and therefore not in a position to file the Application for adjustment of his status. Petitioner craves leave to file the petition upon his release from detention.


6. Petitioner requests that pending this Motion to reopen for adjustment of status of permanent status as stated, it is necessary that this court enter order to release the petitioner from detention and INS custody where he is presently held for deportation.

7. Petitioner states that if he is deported to Pakistan as previously ordered by this Court on February 23, 2005, his present motion to reopen will be considered as moot and or waived, and his rights to be adjusted to the permanent resident status will be seriously prejudiced. Therefore it is necessary that this court enter order to release the petitioner from the INS custody, so that he can appear before this Court to exercise his rights of becoming permanent resident. His detention and ultimate deportation will severely harm him and cause irreparable damages that will not be compensated by any means.

WHEREFORE, the petitioner prays that:

1. The Court vacate the prior order of removal entered February 23, 2005
and,
2. process application of the petitioner for permanent Resident Status.
and,
3. Enter order to forthwith release the petitioner from detention in order to
prevent his deportation to Pakistan.

Respectfully submitted,



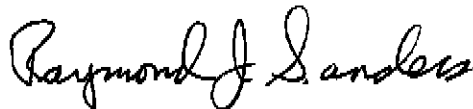
Raymond J. Sanders,
Attorney for Petitioner.

2809 W. Devon Ave.
Chicago, Ill. 60659 Tel: (773) 761 0090.

CERTIFICATE OF SERVICE

The undersigned certifies that he served the accompanying Motion to Reopen and/or Reconsider to the District Counsel, Department of Homeland Security at 55 E. Monroe Street, suite 1700, Chicago, Illinois 60603 on November 8, 2007.

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Raymond J. Sanders
Immigrant Law Center
2809 W. Devon Ave.
Chicago, IL. 60659
(773) 761-0090